

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
ERIE DIVISION**

ROBERT TROHA and FREDERICK BIGNALL	)	
on behalf of themselves and all others	)	
similarly situated,	)	
	)	
Plaintiff,	)	
vs.	)	
	)	Civil Action No. 05-191-E
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	
	)	

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**Fed. R. Civ. P. 26(f) REPORT OF THE PARTIES**

Pursuant to the Preliminary Scheduling Order, counsel for the parties submit the following

Joint Rule 26(f) Discovery Plan:

**1. Identification of counsel:**

Counsel for Plaintiffs

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Counsel for Defendant

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- 2. Nature of the Case:** Plaintiffs bring this case as a proposed class action under 28 U.S.C. § 1346(a)(2) (the “Little Tucker Act”) seeking compensation for the alleged taking of their property interests by the United States through the issuance of a Notice of Interim Trail Use by the U.S. Surface Transportation Board pursuant to the National Trail System Act, 16 U.S.C. § 1241 et seq.
- 3. Rule 26(f) Conference:** A Rule 26(f) conference was held by telephone on September 7, 2005. Counsel for Plaintiffs and Defendant participated in the conference.
- 4. Date of Rule 16 Initial Scheduling Conference:** The Initial Scheduling Conference

(counsel to participate by telephone) is scheduled for October 14, 2005 at 8:30 a.m.

5. **Anticipated Dispositive Motions Under Rule 12:** None
6. **Alternative Dispute Resolution:** If liability is established, the parties believe that ADR may be advisable on the issue of damages.
7. **Changes in Rule 26(a) Disclosures:** None
8. **Subjects on which discovery may be needed:** The parties agree that discovery may be needed on the issues of title, abandonment and damages.
9. **Set forth dates for the following:**
  - a. **26(a) Disclosures:** September 30, 2005
  - b. **Joinder of additional parties:** December 15, 2005
  - c. **Pleadings to be amended:** December 15, 2005
  - d. **Fact discovery completed (liability only)** January 17, 2006
  - e. **Phases or limitations on discovery:** The parties agree that discovery should be bifurcated between liability and damages. The following deadlines are for liability-related discovery.
  - f. **Plaintiffs' expert reports (liability)** January 31, 2006
  - g. **Depositions of Plaintiffs' expert completed** February 28, 2006
  - h. **Defendant's expert reports (liability)** January 31, 2006
  - i. **Depositions of Defendant's experts completed** February 28, 2006
  - j. **Third party expert reports** N/A
  - k. **Deposition of third party experts** N/A
10. **Changes to limitations on discovery** None
11. **Special needs for electronic discovery** None
12. **Post-Discovery Status Conference Deadlines** N/A

13. **Set forth any other order(s) that the parties agree should be entered by the court pursuant to Fed. R. Civ. P. 16(b) or 26(c):**  
The parties agree that Plaintiffs should be required to file their motion for class certification no later than December 20, 2005, or, if the parties are able to reach a stipulation class certification, that stipulation will be filed on or before December 20, 2005.
14. **Appointment of special master:** Not needed at this time
15. **Did parties fail to agree on any subject of this Report?** No
16. **Have the parties considered the possibility of settlement and describe the nature of that consideration:** The parties have discussed the possibility of settlement. The parties agree that there is no possibility of settlement until liability is determined.

Respectfully submitted,

Dated: September 22, 2005

s/David A. Cohen

DAVID A. COHEN

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Counsel of Record for Plaintiffs

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Dated: September 22, 2005

KELLY A. JOHNSON

Acting Assistant Attorney General

Environment & Natural Resources Division

s/Kristine S. Tardiff

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